

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2010-385-C**

IN RE: Application of Allied Wireless                     )  
Communications Corporation d/b/a                     )  
Alltel for Designation as an Eligible                     )  
Telecommunications Carrier                     )

**PROPOSED ORDER OF  
ALLIED WIRELESS COMMUNICATIONS CORPORATION**

This matter is before the Public Service Commission of South Carolina (“the Commission”) on the application of Allied Wireless Communications Corporation (“Allied Wireless”) for designation as an eligible telecommunications carrier (“ETC”) under 47 U.S.C. § 214(e)(2). Allied Wireless filed its application on November 24, 2010.

The South Carolina Telephone Coalition (“SCTC”), PRT Communications, LLC (“PRT”), Piedmont Rural Telephone Company, Incorporated (“Piedmont”), Horry Telephone Cooperative, Incorporated (“Horry”), and FTC Communications, Incorporated (“FTC”) intervened (collectively, “Intervenors”). The ORS was a party pursuant to statute. The public hearing was held at the Commission’s offices on March 3, 2011, with the Honorable John E. “Butch” Howard, Chairman, presiding. At the hearing, Charles L.A. Terreni, Esq. and David LaFuria, Esq. represented Allied Wireless. M. John Bowen, Jr., Esq. and Margaret M. Fox, Esq. represented SCTC, PRT, Piedmont, Horry and FTC. Nanette S. Edwards, Esq. and C. Lessie Hammonds, Esq. represented the ORS. Allied presented testimony from Mr. Rohan Ranaraja, its Director of Regulatory Compliance, the Intervenors presented testimony from Glenn H. Brown,

President of McLean & Brown,<sup>1</sup> and the ORS presented the testimony of Christopher Rozycki, of that agency's telecommunications department.

By this application, Allied Wireless seeks authorization to use support from the federal Universal Service Fund ("USF") for use within Allied Wireless' licensed service area in South Carolina. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific federal universal service support."<sup>2</sup> Pursuant to Section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated ETC service area.<sup>3</sup> Section 214(e)(2) of the Act gives this Commission primary jurisdiction to designate carriers as ETCs.<sup>4</sup>

### **Requirements for Designation**

The Commission may, with respect to an area serviced by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience and necessity, so long as the requesting carrier meets the requirements of Section 214(e)(1).<sup>5</sup> Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.<sup>6</sup>

An ETC petition must contain the following: (1) A demonstration of the applicant's capability and commitment to offer all of the services that are supported by the federal USF; (2) a demonstration of the applicant's capability and commitment to offer the supported services,

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<sup>1</sup> We note that Mr. Brown appears before us on behalf of FTC, an existing ETC in the state, opposing the designation of Allied Wireless, but previously he testified in 2007 on behalf of some of the same Intervenor here, in opposition to the designation of FTC's application to be an ETC. Tr. 267.

<sup>2</sup> 47 U.S.C. §254 (e).

<sup>3</sup> 47 U.S.C. §214 (e)(1).

<sup>4</sup> 47 U.S.C. §214 (e)(2).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

“either using its own facilities or a combination of its own facilities and resale of another carrier’s services”; (3) a description of how the applicant will “advertise the availability of the [supported] services and the charges therefor using media of general distribution”; (4) a detailed description of the geographic service area for which it requests ETC designation from the Commission;<sup>7</sup> and (5) a demonstration that the applicant meets the additional eligibility criteria set forth at Section 103-690 of the S.C. Code Reg.

## **DISCUSSION**

### **Basic Qualifications**

#### **Offering the Services Designated for Support**

Allied Wireless has demonstrated through the required certifications, filings and testimony that it now offers, or will offer upon designation as an ETC, all nine services supported by the federal universal service mechanism, using its own facilities, or a combination of its own facilities and resale.<sup>8</sup> As discussed below, no party offered any evidence challenging Allied Wireless’ basic qualifications to be designated as an ETC.

Allied Wireless holds FCC authorizations serving areas in South Carolina within both rural and non-rural telephone company service areas.<sup>9</sup> Allied Wireless has demonstrated and certified, that it offers, or will offer all of the services supported by the federal universal service fund, set forth at 47 C.F.R. §54.101, throughout the its designated ETC service area in South

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<sup>7</sup> See, e.g., *Application of Hargray Wireless, LLC*, Docket No. 2003-227-C, Order No. 2007-804 (Nov. 14, 2007).

<sup>8</sup> See, e.g., Tr. 21-25.

<sup>9</sup> See, Allied Wireless application at Exhibits 1 and 2.

Carolina and that it will advertise the availability of those services throughout the designated ETC service area by media of general distribution.<sup>10</sup>

Allied Wireless has certified that it will comply with the Commission's requirements for designation as an ETC as set forth in the Commission's rules, 103-690 (C)(a)(1)(A).<sup>11</sup>

Allied Wireless has committed to ensure that consumers within its ETC service area are fully informed of its universal service offerings, including through the provision of notices at local unemployment, social security and welfare offices in satisfaction of S.C. Code Reg §§ 103-690.1E(a)(1), 103-690.1E(b)(1).<sup>12</sup> Allied Wireless has also committed to make available and advertise low-income discounts under the federal Lifeline and Link-up programs to qualifying low-income consumers.<sup>13</sup>

Allied Wireless has demonstrated that it satisfies the requirement of Section 214(e)(1)(a) of the federal statute that it offer the supported services using either its own facilities or a combination of its own facilities and the resale of another carrier's services.<sup>14</sup>

Allied Wireless testified that it is an independent company that is not affiliated with Alltel Corporation, which was previously acquired by a private equity company, Atlantis. Nor is Allied Wireless affiliated with Atlantis or Verizon Wireless.<sup>15</sup> As an independent company, Allied Wireless would not be subject to any FCC order relating to the Verizon-Atlantis transaction concerning universal service support. The connection between Allied Wireless and Alltel is solely contractual, that is, Allied Wireless has licensed the Alltel brand name for use within South Carolina.<sup>16</sup> Accordingly, although Intervenors did not assert this in their testimony,

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<sup>10</sup> *Id.*, at pp. 5-9, 17 and Exhibit 3 (Affidavit of Frank O'Mara, Chief Executive Officer of Allied Wireless).

<sup>11</sup> See Allied Wireless application at pp. 10-11.

<sup>12</sup> *Id.*, at p. 17; Tr. At 25-26.

<sup>13</sup> *Id.*, at p. 17; Tr. 26-27.

<sup>14</sup> 47 U.S.C. §214(e)(1)(A); Allied Wireless application at pp. 16-17; Ranaraja Testimony, Tr. 21-25.

<sup>15</sup> Tr. 17-18.

<sup>16</sup> Tr. 18.

we reject any inference that Allied Wireless has an affiliation with Alltel Corporation that would be ineligible to draw from the federal high-cost fund should we grant its application.<sup>17</sup>

No party offered any evidence disputing Allied Wireless' ability to offer and advertise the supported services through its own facilities, or a combination of its facilities and resale, or to make such services available to low-income consumers, in compliance with federal law.

#### Additional Eligibility Criteria Established in the Commission's Regulations

Allied Wireless has demonstrated that it meets the additional eligibility criteria established in Section 103-690 of the Commission's regulations.

Allied Wireless has certified that it will provide service throughout the ETC service area to all customers making a reasonable request for service.<sup>18</sup> Allied Wireless has described a six-step process that it will undertake when a customer requests service.<sup>19</sup> No party challenged Allied Wireless' ability to provide service upon reasonable request.

Allied Wireless has submitted a two-year service improvement plan, including a coverage map, detailing its coverage before and after the proposed improvements are made.<sup>20</sup> Exhibit 5 to the Allied Wireless application sets forth detailed construction plans, on a wire center-by-wire center basis, including proposed costs of all major categories of facilities needed to improve its network. Allied Wireless proposes to invest approximately \$8 million in federal support during its two-year plan to expand and improve its network coverage footprint, including the

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<sup>17</sup> See, e.g., Tr. 91-93.

<sup>18</sup> Allied Wireless application at p. 10; See S.C. Code Reg. §103-690C(a)(1)(A).

<sup>19</sup> *Id.* at pp. 10-11; Tr. at 29-30.

<sup>20</sup> Allied Wireless application at Exh. 5; See S.C. Code Reg. §103-690C(a)(1)(B).

construction of 20 new cell sites.<sup>21</sup> In addition, capital invested by Allied Wireless will be several times greater than the amount of universal service support it expects to receive.<sup>22</sup>

On examination from the Commissioners, Allied Wireless witness Ranaraja affirmed that the company has specified five new cell sites to be constructed each year, which will absorb the entire \$2 million that the company expects to receive from the federal fund each year.<sup>23</sup> The remaining cell sites proposed to be constructed in Allied Wireless' build plan will be built with capital from Allied Wireless. If Allied Wireless' application is denied, those additional cell sites may not be built.<sup>24</sup> Witness Ranaraja also testified that the company will work with the Commission to ensure that the location of its proposed cell sites in sufficiently rural areas is appropriate.<sup>25</sup>

Allied Wireless has demonstrated its ability to remain functional in emergency situations. The company has adequate amounts of back-up power to ensure functionality in a power outage. It is able to reroute traffic around damaged facilities, and it is capable of managing traffic spikes in emergency situations. Allied Wireless detailed its network's emergency capabilities in Mr. Ranaraja's testimony.<sup>26</sup> No party challenged Allied Wireless' ability to remain functional in emergency situations.

Allied Wireless has demonstrated its ability to satisfy applicable consumer protection and service quality standards.<sup>27</sup> Allied Wireless has committed to abide by the Consumer Code for Wireless Service adopted by CTIA-The Wireless Association,<sup>®</sup> as it may be amended from time

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<sup>21</sup> Tr. 32-33.

<sup>22</sup> Tr. 33.

<sup>23</sup> Tr. 145-46; See also Tr. 150, confirming that the proposed cell sites will be built if the application is granted; See also Tr. 152 at lines 15-18 and lines 24-25 ("Q. So that's 100 percent assurance from your company? A. Absolutely.")

<sup>24</sup> Tr. 146.

<sup>25</sup> Tr. 149.

<sup>26</sup> Allied Wireless application at p. 13-15; Tr. 34-36.

<sup>27</sup> See 47 C.F.R. §54.202(a)(3); S.C. Code Reg. §103-690C (a)(1)(C)(3), 103-690.1B(b)(5).

to time. Allied Wireless has committed to abide by the requirements of 47 C.F.R. §54.209(a)(4) and 54.209(a)(5) of the FCC's rules, as well as this Commission's rules for service quality.<sup>28</sup>

Witness Ranaraja testified that the company conducts regular drive tests of Allied Wireless' network, acknowledged that its network in rural South Carolina "has holes in it" and that other carriers roam on its network, which is evidence that other carriers also have deficiencies in their rural coverage.<sup>29</sup> None of the other wireless carriers roaming on Allied Wireless' network are ETCs, eligible to receive federal high-cost support to improve their networks.<sup>30</sup> Witness Ranaraja also testified that service quality in the proposed ETC service area could improve because the other carriers licensed to serve there could reduce their deployment costs by co-locating on the towers Allied Wireless constructs with federal high-cost support.<sup>31</sup>

No party challenged Allied Wireless' ability or commitment to satisfy applicable consumer protection and service quality standards.

Allied Wireless has demonstrated that it will offer local usage plans comparable to those offered by incumbent local exchange carriers in the service areas for which the company seeks ETC designation. Exhibit 4 to Allied Wireless' application contains local service plans that are within the scope of comparability as defined by the FCC.<sup>32</sup> For example, Allied Wireless offers a \$39.99 rate plan that specifies a local calling area throughout North Carolina, South Carolina, and parts of Georgia, including 700 minutes of calling, unlimited nights and weekends, and unlimited mobile-to-mobile calls.<sup>33</sup> In addition, Allied Wireless offers a variety of rate plans that permit consumers to choose which plan best suits their needs.

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<sup>28</sup> *Id.*; See also, Tr. 36-37.

<sup>29</sup> Tr. 171-172.

<sup>30</sup> Tr. 172.

<sup>31</sup> Tr. 174.

<sup>32</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005).

<sup>33</sup> Allied Wireless application at Exh. 4; Tr. 37-39.

We find that Allied Wireless' service offerings are comparable to those offered by incumbent local exchange carriers. Consumers who wish to place only local calls within a small community, make few long distance calls, and who do not value the use of a mobile device, may wish to choose a wireline service offering that may be priced above or below that offered by Allied Wireless. Others may wish to purchase an unlimited nationwide plan from a wireline telephone company, which are now available in many areas. Those seeking a wider local calling area may find that Allied Wireless' rate plan is more affordable because it includes a local calling area encompassing two states and parts of a third, allowing a consumer to avoid high intra-LATA and inter-LATA phone charges. Others, who value mobility, or who wish to avoid high rates at phone booths or hotels, may find Allied Wireless to be a more affordable alternative. By designating Allied Wireless, we facilitate the construction of new cell sites in rural South Carolina, enhancing the variety of local calling plans available to our citizens. The introduction of new choices into the marketplace allows rural consumers to have access to reasonably comparable services as are available in urban areas, in furtherance of our mandate under Section 254(b)(3) of the federal statute.

For low-income consumers, a particularly important aspect of the public interest analysis, Allied Wireless will offer a discounted rate plan at a price of \$16.49.<sup>34</sup> While we discuss below the public interest benefits for low-income households below, we note here that Allied Wireless offers consumers a Lifeline discount of \$13.50, which compares favorably to the \$8.25 discount offered by other ETCs previously approved by this Commission.<sup>35</sup>

Finally, Allied Wireless must offer comparable and affordable service plans, because if rates are set too high and consumers do not choose Allied Wireless' service, then Allied Wireless

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<sup>34</sup> Tr. 101.

<sup>35</sup> Id.



will not receive any federal universal service support.<sup>36</sup> No party introduced any evidence challenging Allied Wireless' showing that it offers local usage plans that are comparable to those offered by incumbent local exchange carriers in South Carolina.

Allied Wireless committed to offer equal access, should the FCC ever adopt a rule requiring it to do so.<sup>37</sup> No party challenged Allied Wireless' commitment to offer equal access.

The ORS recommended that the Commission continue to grant compliant applications that serve the public interest in South Carolina.<sup>38</sup>

In sum, the Commission finds that Allied Wireless has demonstrated that it has the basic qualifications to be designated as an ETC, and that it meets the additional requirements set forth in this Commission's rules and in the FCC's rules.

### Public Interest Analysis

As explained below, we find that it is in the public interest to designate Allied Wireless as an ETC in the non-rural wire centers served by Bellsouth Telecomm, Inc., Verizon South Inc.-SC, and Verizon South Inc – SC (Contel), and the study areas of the following rural telephone companies, set forth at Exhibit 2 of its application: Chesnee Telephone Co, Lockhart Telephone Co, Inc., Norway Telephone Co, Inc., Piedmont Rural Telephone Cooperative, Inc., Ridgeway Telephone Co, Inc., West Carolina Rural Telephone Cooperative, Inc., and Williston Telephone Co. Because Allied Wireless proposes to be designated throughout the entire study area of each rural telephone company, designation of Allied Wireless will not cause cream-skimming

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<sup>36</sup> The fact that Allied Wireless already has thousands of customers in South Carolina is compelling evidence that consumers find its service offerings to be affordable.

<sup>37</sup> Allied Wireless application at p. 16; Tr. 39.

<sup>38</sup> Tr. 324-25.

concerns or require any cream-skimming analysis pursuant to 47 U.S.C. § 214(b)(5) and 47 C.F.R. § 54.207.<sup>39</sup>

In the areas served by a non-rural telephone company, the federal statute requires a state commission to designate an additional CETC that meets the requirements of Section 214(e)(1), consistent with the public interest, convenience and necessity.<sup>40</sup> In areas served by a rural telephone company, the state commission must determine whether the public interest would be served by a grant.<sup>41</sup> When making a public interest determination, the South Carolina regulations state that the Commission shall consider, among other things, the benefits of increased consumer choice and the unique advantages and disadvantages of Allied Wireless' service offering.<sup>42</sup>

At the hearing, ORS witness Rozycki testified that Allied Wireless meets the criteria set forth in South Carolina Regulation 103-690, which regulation includes the public interest criterion.<sup>43</sup> On examination from Commissioner Mitchell, Mr. Rozycki testified:

We think that, in fact, adding one new Federally funded CETC providing additional competitive services in the areas, building new towers in areas that are unserved or underserved, does add competitive opportunities, new services to consumers -- despite what others may say. Whether it's two, six, seven, adding one more does give consumers additional options.<sup>44</sup>

We find that Allied Wireless' universal service offering will provide a variety of benefits to consumers including additional choices and advantageous service offerings. Universal service support will enable Allied Wireless to construct facilities in rural portions of South Carolina where wireless networks are underdeveloped. In the rural areas where Allied Wireless has

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<sup>39</sup> Tr. 28-29.

<sup>40</sup> 47 U.S.C. §214(e)(2).

<sup>41</sup> Id.

<sup>42</sup> S.C. Code Reg. §103-690C(b).

<sup>43</sup> Tr. 326.

<sup>44</sup> Tr. 327-8; See also, Tr. 331-332.

applied, no other CETC has been designated and therefore no federal high-cost support has been invested to improve rural wireless infrastructure. Construction of new facilities by Allied Wireless will not only improve services for its customers, but will enable all Americans using similar technology, such as for example, Verizon Wireless customers, to roam on Allied Wireless' network when they travel into South Carolina.<sup>45</sup>

Accordingly, in every area where Allied Wireless is able to improve its network with federal high-cost support, consumers will be able to access the benefits of increased competitive choices. The presence of new high-quality wireless service offered when Allied Wireless builds a new tower gives rural consumers an opportunity to have an additional choice of service providers. As stated above, Allied Wireless offers an array of service options that rural consumers should find attractive, provided Allied Wireless uses support to build additional cell sites to fill in its network in rural unserved and underserved areas. The construction of new towers will require any existing provider to compete and improve its service or risk losing customers to Allied Wireless. This is one of the public interest benefits that the 1996 Telecom Act intended to deliver when Congress authorized the designation of additional ETCs.

We must consider the impact of Allied Wireless' designation on the federal universal service fund. We take official notice of the FCC's action in May, 2008, capping high-cost support to CETCs nationwide, on a state-by-state basis.<sup>46</sup> Pursuant to the *Interim Cap Order*, federal high-cost support is frozen in South Carolina at the level provided in March, 2008. Designation of an additional CETC in South Carolina means that the existing level of support provided statewide must be apportioned among all CETCs within the state. That is, the designation of a new CETC will reduce support to other CETCs in the state, in proportion to

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<sup>45</sup> Tr. 193.

<sup>46</sup> *High-Cost Universal Service Support*, FCC 08-122, Order (May 1, 2008) ("*Interim Cap Order*").

each carrier's market share. There is no effect on the federal fund. That is, designation of Allied Wireless will not increase the amount of capped support within South Carolina, nor will it have any other adverse effects on the size of the federal fund.

We now consider the unique advantages and disadvantages of Allied Wireless' service offerings. At the outset, we do not see any unique disadvantage that would accrue to South Carolina's rural consumers who would be served by Allied Wireless, provided the company remains in compliance with the Commission's rules eligible telecommunications carriers. With respect to unique advantages, Allied Wireless offers mobility, which no other ETC within its proposed service area offers today.<sup>47</sup>

This is especially important with respect to low-income consumers, who today have no ability to access discounted telephone service from a wireless provider. Designation of Allied Wireless will provide a unique benefit to these citizens who are often least served. As Witness Rozycki succinctly put it, "There is no other facilities-based wireless carrier offering Lifeline service in those territories. So that, to us, is unique and significant."<sup>48</sup> We agree. For consumers who live in dead zones out in rural South Carolina, especially low-income households, the introduction of new service by Allied Wireless as a CETC, with the obligations to improve their network and offer service to all consumers under our rules, will be unique. Allied Wireless also demonstrated that it offers rate plans and local calling areas that are different than its competitors.<sup>49</sup>

With respect to the commitments regarding the quality of service offered by Allied Wireless, we note at the outset that \$8 million of additional investment into rural South Carolina will undoubtedly improve service quality for citizens living in the newly served areas.

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<sup>47</sup> Tr. at 43.

<sup>48</sup> Tr. at 328.

<sup>49</sup> Tr. 58-60.

Moreover, Allied Wireless has made a number of service quality commitments in the record, under oath. The company has certified that it will comply with the CTIA Consumer Code for Wireless Services.<sup>50</sup> Allied Wireless testified that it has procedures in place to insure that customer complaints and inquiries are responded to promptly and fairly. Complaints are tracked, logged, and responded to by customer care specialists.<sup>51</sup> No party offered any evidence that Allied Wireless does not currently provide high-quality service in South Carolina, or demonstrated that its service quality will not comply with the Commission's requirements.

We consider the likelihood of cream-skimming as a result of a grant of this application. Under federal law, cream-skimming is only considered in areas served by rural telephone companies and is only relevant when an applicant proposes to serve less than the entire rural telephone company study area.<sup>52</sup> Because Allied Wireless is applying for ETC status only throughout the entire study area of affected rural telephone companies, and has committed to offer and advertise its services throughout those rural telephone company study areas, there is no possibility of cream-skimming if we designate Allied Wireless to be an ETC.

We now consider the question whether it is in the public interest to spread federal high-cost support available in South Carolina under the FCC's interim cap across the state, or whether it should be retained in existing ETC service areas. The Intervenor, who stand to see their annual federal high-cost support payments reduced if Allied Wireless' application is granted, argue that the public interest in South Carolina would not be served if support is spread across the state into areas where no other CTEC has been designated. They believe the Commission

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<sup>50</sup> Tr. at 36.

<sup>51</sup> Tr. at 37.

<sup>52</sup> See 47 U.S.C. § 214(e); C.F.R. §54.207.

should deny Allied Wireless' application so that the areas they serve continue to receive current levels of support, totaling approximately \$6 million per year.<sup>53</sup>

Witness Brown testified that designation of Allied Wireless would result in scarce high-cost support being diverted from more rural portions of the state to more urban areas that Allied Wireless serves.<sup>54</sup> According to Witness Brown, the ILEC areas of Verizon and AT&T in western parts of the state are more urban than those served by Mr. Brown's clients who serve the PeeDee and coastal regions in the eastern part of the state.<sup>55</sup> Witness Brown is concerned that existing CETCs in the state have made commitments to this Commission to construct facilities with support, and that other carriers will apply for ETC status, further reducing the pool of funds for his clients, leading to a "downward spiral."<sup>56</sup>

Allied Wireless introduced evidence that the average population density of the areas it is proposing to serve is lower than the average population density served by Mr. Brown's clients.<sup>57</sup> Although Mr. Brown disagreed, to the extent that population density is probative here, the difference between the two areas is not significant enough to make a difference. Moreover, on cross-examination, Mr. Brown conceded that he does not have the expertise to determine whether the cell sites proposed to be built by Allied Wireless are located in more urban or more rural areas within its proposed ETC service areas.<sup>58</sup> It is enough for us to conclude that both sides of this state contain rural areas that need telecommunications investment. We need not repeat here the other public interest benefits of designating Allied Wireless, as set forth above.

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<sup>53</sup> Tr. 225-226.

<sup>54</sup> Tr. 230.

<sup>55</sup> Id.

<sup>56</sup> Tr. at 230-231.

<sup>57</sup> Tr. at 62-63; Hearing Exh. 2.

<sup>58</sup> Tr. 281.

Witness Brown also testified that the reduction in support to his clients was significant, and that this is a case of first impression because he doubted that the FCC or other states had dealt with a situation where existing ETCs would face a “42% reduction” in federal support.<sup>59</sup> Yet, on cross-examination, he admitted that he had not reviewed a single one of the twelve cases at issue to substantiate his doubt, or his speculation that other carriers around the country may be facing similar reductions in support as a result of the FCC’s interim cap.<sup>60</sup>

The question at hand is whether the public interest is better served by, (a) denying Allied Wireless’ application so that 100% of the federal support flowing into the state can remain with the existing ETCs serving parts of ten counties in the eastern part of the state, or (b) granting Allied Wireless’ application so that some of the federal support flowing into the state can be invested for the benefit of citizens living in an additional sixteen counties on the western side of the state, which would reduce the amount of support received by existing ETCs.

We take official notice of the annual reports filed by existing ETCs in the state, which outline investments they have made to date. We note that carrier reports indicate that substantial investments have been made in the eastern portion of the state, but since no wireless ETC has been designated in the western part of the state, no investments with federal support have been made, despite the fact that our citizens living in Allied Wireless’ proposed service areas have been contributing to the universal service mechanism for many years. We note for example, the annual report and network improvement plan filed by HTC in 2009, which includes maps

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<sup>59</sup> Tr. 271-272.

<sup>60</sup> Tr. 272-273. Mr. Brown testified that he tried to review a Nevada case but had difficulty with the state’s web site and that he didn’t have much time to prepare for this case. We note that the T-Mobile ETC application case in Washington, cited in Mr. Ranaraja’s reply testimony includes specific consideration of the cap effects on existing ETCs. Moreover, we take official notice of a recent case in Hawaii, wherein the commission specifically considered the effect of designating T-Mobile on existing ETCs. *Application of T-Mobile West Corporation, Decision and Order*, Docket No. 2010-0119, (March 14, 2011).

evidencing the use of federal high-cost support to build cell sites in the Surfside Beach and Myrtle Beach areas, as well as other areas within HTC's designated ETC service area.<sup>61</sup>

We draw no adverse inference from HTC's investments. That said, while the federal universal service mechanism may allow carriers to invest high-cost support in Horry County, including the relatively metropolitan Myrtle Beach region, this Commission is fully empowered by its public interest mandate to direct support within the state for the benefit of all of our rural citizens.

We are not persuaded that wireline operations run by Verizon and AT&T serve more urban areas in the western parts of the state than does HTC, for example, in the eastern part of the state. Despite the FCC having branded Verizon and AT&T as "non-rural" carriers, the areas they serve in Allied Wireless' proposed ETC service area are overwhelmingly rural in character. For example, the AT&T areas include wire centers in localities such as Allendale, Bamberg, Clinton, Wallhalla, and Prosperity; Allied Wireless' Verizon wire centers are in localities such as Abbeville, McCormick, and Winnsboro.<sup>62</sup> For purposes of this case, it is not necessary for the Commission to find that the area proposed by Allied Wireless is more or less rural than that of other carriers. It is enough for us to find that no other carrier is using federal high-cost support to improve service in these parts of the state, which are indisputably rural, and that the investment of an additional \$8 million over the next two years will serve rural citizens in those areas.

The Intervenor has not provided a witness or any testimony substantiating Mr. Brown's suggestion that reducing support to his clients and spreading it across our state could cause them to enter into a "downward spiral." We conclude that it is far more likely that a 42% reduction in

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<sup>61</sup> We take official notice of these documents, on file with the Commission.

<sup>62</sup> Tr. Exhibit 2 (RR-1).



support, as suggested by Mr. Brown<sup>63</sup> would merely slow down future build plans. Indeed, Mr. Brown agreed with Vice-Chairman Wright's suggestion that existing ETCs may choose to absorb the reduction in support and build additional cell sites with existing funds.<sup>64</sup>

If support to an existing CETC is significantly reduced as a result of how the Interim Cap operates, we would expect it to return to the Commission to request an adjustment of its build plan in accordance with the changed circumstances.<sup>65</sup> This is no different than if the FCC lifted the Interim Cap and carriers received increased support – we would expect ETCs to file corresponding amendments to build plans explaining how the additional funds would be invested.

For this Commission to accept Mr. Brown's suggestion that his clients would face some significant harm by designation of Allied Wireless, we require some measure of proof in the form of a financial showing or other fact-based evidence. The Intervenor did not offer a single example of another wireless carrier across the country entering into a "downward spiral" as a result of support being reduced by operation of the FCC's interim cap. Nor did Intervenor offer any demonstration of how many dollars of support they could lose before their business could be endangered. Nor did they introduce any evidence suggesting that they would be forced to amend their existing two-year construction plans if Allied Wireless' application is granted.

We find that designating Allied Wireless will provide substantial public interest benefits to rural citizens who heretofore have not received any investment of federal funds. We note that our decision to spread funding across the state to 16 additional counties is supported by the

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<sup>63</sup> Tr. 251.

<sup>64</sup> Tr. 304-305.

<sup>65</sup> Commissioner Fleming pointed out that when the FCC adopted the Interim Cap, carriers adversely affected would have already come before the Commission seeking adjustments to their construction commitments. See Tr. at 302-303.

ORS.<sup>66</sup> Citizens living in existing ETC service areas will not be substantially harmed if the existing ETCs are ultimately forced to slow down their construction plans as a result of our decision to spread available high-cost support across the state. The benefits of delivering new service to these areas, even under the FCC's interim cap, far outweigh the possible reduction in the pace of investment by existing ETCs.

Much of Mr. Brown's testimony deals with problems or shortcomings in the FCC's universal service mechanism, or the possibility that it will be reformed. Those problems are beyond the scope of this proceeding, which is to determine whether Allied Wireless is qualified, and whether citizens in its proposed service area will benefit from its designation. If the FCC overhauls its ETC rules, and support to South Carolina is reduced as a result, the effects will be felt across the board by all wireless ETCs, and all will have to adjust. Whatever we do here will not prejudice existing ETCs. Likewise, if the FCC puts off reform for another day, as it has for the past ten years, then the public will be served by Allied Wireless having the opportunity to invest further in rural South Carolina.

We find Allied Wireless' ability and commitment to use high-cost support to fill in dead zones within its proposed ETC service area to be a compelling public interest consideration. While we accept witness Brown's testimony that there are a number of wireless carriers licensed to serve throughout the state, that fact speaks nothing to the quality of service that each are providing in our state's rural areas. On examination by Commissioner Fleming, Mr. Brown stated that if Allied Wireless proposes to fill in dead spaces within the state, it would benefit not only consumers who live in those areas, but all other citizens of South Carolina and throughout the country who travel through those areas.<sup>67</sup> We agree with him. The investment of \$8 million

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<sup>66</sup> Tr. 328-329; see also Tr. 333.

<sup>67</sup> Tr. 301.

in support to construct twenty new cell sites will improve coverage for rural consumers who have never had the benefit of an investment in federal high-cost support in the areas where they live, work and travel.<sup>68</sup> That amount is double the \$4 million that Allied Wireless expects to draw from the fund in total during its two year improvement plan.<sup>69</sup> Mr. Ranaraja testified that Allied Wireless was committed to invest every dollar of the \$4 million in support it receives into new cell sites and to report to the Commission each year how it has invested support in South Carolina.<sup>70</sup>

We reject suggestions from Intervenors that the better course is to do nothing until the FCC acts on broader universal service reform. We agree with the ORS that administration of the federal fund is a function of the Universal Service Administrative Company (“USAC”) and that proceedings at the FCC which are expected to result in reform of the federal high-cost support mechanism are completely separate from the issues to be decided in this proceeding and beyond the jurisdiction of this Commission.<sup>71</sup>

Intervenors also claim that there is already robust competition in rural areas where Allied Wireless proposes to be designated. ORS witness Rozycki acknowledged that there are multiple carriers licensed to provide service in rural areas, but noted that this case is not about whether there is wireless service generally in the areas to be served, it is about whether the dead zones out in rural areas get filled in, which we conclude is required to achieve universal service for rural

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<sup>68</sup> Based on information provided at Hearing Exhibit 6 for HTC and FTC, and upon a review of other ETC annual reports on file, of which we take official notice, we find that the level of investment the Commission would receive from Allied Wireless with support will be at least comparable to that provided by other ETCs currently operating in the state.

<sup>69</sup> Tr. 57.

<sup>70</sup> Tr. 139-140.

<sup>71</sup> Tr. 324, 330.

consumers.<sup>72</sup> Indeed, the map submitted by Allied Wireless demonstrated significant dead zones within its rural coverage area.<sup>73</sup>

We agree that there are numerous carriers licensed to provide service within the state, all of which provide some level of service in their territories. But that is not what the designation of an ETC is about.<sup>74</sup> Designating an ETC provides consumers in rural areas with a carrier who can invest high-cost support to deliver high-quality service, who is required to offer and advertise its service throughout its ETC service area, and to respond to all reasonable requests for service. Moreover, an ETC can provide federal Lifeline discounts to low-income households, increasing affordability and utility of the telephone network for those who may need it most.

While Mr. Brown could not say on cross-examination whether the cell sites proposed to be constructed by Allied Wireless would serve dead zones in rural areas or serve urban centers,<sup>75</sup> Mr. Ranaraja testified that Allied Wireless technicians drive test its market every day to determine where there are dead zones in the network and that the company then invests capital to fill those areas in so that its customers can have a more seamless experience, and that high-cost support would be invested in places where there would be no business case to build without support.<sup>76</sup>

The Commission's responsibility to determine whether a grant of Allied Wireless' application would serve the public interest requires us to look to the federal statute that created the program and to look at the totality of circumstances. Our inquiry is limited by statute, and

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<sup>72</sup> Tr. 337.

<sup>73</sup> See Hearing Exhibit 3.

<sup>74</sup> In making factual assertions about the coverage of wireless carriers within the state, Intervenor did not introduce the expert testimony of a radiofrequency engineer. See Tr. 265-66. We take note of our previous finding in the Hargray designation case, that Mr. Brown is not a radiofrequency engineer and he has never designed a wireless network. Application of Hargray Wireless, LLC, Order Designating Hargray Wireless as an ETC, Docket No. 2003-227-C, Order No. 2007-804 (Nov. 14, 2007) at n. 39.

<sup>75</sup> Tr. 281.

<sup>76</sup> Tr. 105-107.

must focus on the costs and benefits to South Carolina's citizens in the proposed ETC service area. Based on the totality of evidence presented by both parties in this case, we conclude that South Carolina's citizens will be served by a grant of Allied Wireless' application.

The investment of as much as \$8 million over the next two years into the affected rural counties will bring substantial benefits to rural citizens who have not heretofore had the benefit of increased investments by a wireless ETC. These citizens have been contributing into the federal fund for many years, without having had the benefit of investments that the fund is intended to deliver in rural areas. Without support, Allied Wireless will likely reduce its investments in these areas, which would not serve the public. Moreover, low-income households in the proposed ETC service area will see substantial benefit, because they will for the first time have access to a wireless ETC which can provide discounted telephone service, something that can be very valuable to such households.

In other areas of South Carolina, which have had the benefit of ETC investments for several years, the reduction in support, while disputed, may cause existing ETCs to reduce the rate at which they invest in future years. We think that all rural counties in the state should have the benefit of some investment and that fundamental fairness dictates that the existing ETCs can give up some of their federal subsidies so that the citizens in the proposed ETC service area can have the benefit of some investments, for however long the federal program continues to provide them.

We find that possible changes in the federal universal service fund mechanism, however imminent or likely, are beyond the scope of this proceeding. Under the statute and our rules, our job is to determine whether South Carolina citizens will benefit from a grant of Allied Wireless' application, not to judge, or prejudge the FCC's actions in rulemaking proceedings intended to

determine how funds are distributed. If and when the FCC takes action, all affected carriers and this Commission will be forced to make necessary adjustments. Not acting on Allied Wireless' application while the FCC deliberates is not an option.

**IT IS, THEREFORE, ORDERED THAT:**

1. Allied Wireless is designated as an ETC, as of the effective date of this order, in the requested areas of the non-rural telephone companies Bellsouth Telecomm Inc., Verizon South, Inc. – SC, and Verizon South, Inc. – SC (Contel) as set forth on Hearing Exhibit 1.
2. Allied Wireless is designated as an ETC, as of the effective date of this order, in the requested areas of the rural telephone companies Chesnee Telephone Co., Chester Telephone Co., Lockhart Telephone Co., Inc., Norway Telephone Co., Inc., Piedmont Rural Telephone Cooperative, Inc., Ridgeway Telephone Co., Inc., West Carolina Rural Telephone Cooperative, Inc., and Williston Telephone Co. as set forth on Hearing Exhibit 1.
3. Allied Wireless shall abide by the FCC's ETC designation rules, 47 C.F.R. §54.202 and 54.209, as well as S.C. Code 103-690.1.
4. Allied Wireless shall abide by its commitment to provide service throughout its ETC designated service area to all customers making a reasonable request for service, including low-income customers.
5. All federal USF funding received as a result of this Order will be used to support the expansion and improvement of services in high cost areas and provide Lifeline credits for low income customers.

6. Concurrent with the filing of this Order, the Commission will file a certification with the FCC and the Universal Service Administrative Company "within 60 days of the effective date" of this Order, as required by 47 C.F.R. Sections 54.313 and 54.314, stating that Allied Wireless will use high-cost support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." The certification shall specify that it covers the time period from the effective date of this Order through the end of the calendar year.
7. Should the Commission determine Allied Wireless has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes, rules, or regulations, the Commission may deny Allied Wireless' annual recertification as an ETC.
8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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John E. 'Butch' Howard, Chairman

ATTEST:

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David A. Wright, Vice-Chairman